

**BOROUGH OF FRANKLIN
COUNTY OF SUSSEX
ORDINANCE #20-2016**

LAND USE BOARDS REVISIONS

**AN ORDINANCE AMENDING AND SETTING FORTH
REVISIONS TO THE FRANKLIN BOROUGH PLANNING
BOARD AND CONSOLIDATING THE BOROUGH ZONING
BOARD OF ADJUSTMENT PURSUANT TO N.J.S.A. 40:55D-
25(c)**

WHEREAS BE IT ORDAINED AND ENACTED by the Mayor and Council of the Borough of Franklin, County of Sussex, New Jersey, as follows:

Section 1. The Borough Ordinances are hereby amended as follows:

Borough of Franklin, NJ

Chapter 161. Land Development

Article II. Planning Board and Zoning Board of Adjustment

§ 161-4. Planning Board.

A. Establishment of Planning Board.

(1) Membership. The Borough of Franklin Planning Board shall consist of nine (9) members of the following four classes:

(a) Class I: the Mayor or Mayor's designee.

(b) Class II: one of the officials of the Borough, other than a member of the Borough Council, to be appointed by the Mayor.

(c) Class III: a member of the Borough Council to be appointed by the Borough Council.

(d) Class IV members: six (6) other citizens of the Borough to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, position or employment except that one member may be a member of the Board of Adjustment. Not more than one Class IV member may be a member of the Board of Education. For the purpose of this section, membership on a Borough board or commission whose function is advisory in nature, the establishment of which is discretionary and not required by statute, shall not be considered the holding of Borough office.

(e) Alternate members. Four (4) alternate members shall be appointed and shall meet the qualifications of Class IV members of nine-member planning boards. Alternate members shall be designated at the time of appointment by the Mayor as "Alternate No. 1," "Alternate No. 2," "Alternate No. 3" and "Alternate No. 4." The terms of the alternate members shall be for two years, except that the terms of the alternate members shall be such that the term of not more than one alternate member shall expire in any one year; provided, however, that in no instance shall the terms of the alternate members first appointed exceed two years. A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member(s) is/are to vote, the alternate members shall be chosen sequentially by their designated number.

(2) Terms. The term of the Class I member shall correspond to his or her official tenure as Mayor. The terms of the members composing Class II and Class III shall be for one

year or terminate at the completion of their respective terms of office, whichever occurs first. The term of all other Class IV members shall be four years. If a vacancy in any class shall occur otherwise than by expiration of the Planning Board term, it shall be filled by appointment, as above provided, for the unexpired term.

(3) Organization. The Planning Board shall organize annually by selecting from among its Class IV members a Chairperson and a Vice Chairperson. The Board shall also select a Secretary who may or may not be a member of the Board or a municipal employee, and create and fill such other offices as established by ordinance.

(4) Legal counsel and other professional staff. The Planning Board may annually appoint an attorney at law of New Jersey other than the Municipal Attorney as Planning Board Attorney and may fix his or her compensation or rate of compensation not exceeding the amount appropriated. The Planning Board may also employ or contract for and fix the compensation of such experts and other staff and services as it may deem necessary. The Board, however, shall not authorize expenditures which exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use.

(5) Conflict of interest. No member of the Planning Board shall be permitted to act on any matter in which he or she has either directly or indirectly any personal or financial interest.

(6) Removal. Any member other than a Class I member, after a public hearing, if requested, may be removed by the governing body for cause.

B. Powers and jurisdiction of Planning Board

(1) Mandatory powers. The Planning Board shall exercise its powers in accordance with the MLUL in regard to:

- (a) The Borough Master Plan pursuant to N.J.S.A. 40:55D-28.
- (b) Subdivision and site plan review pursuant to this chapter.
- (c) Any official map adopted by the Borough Council pursuant to N.J.S.A. 40:55D-32 et seq.
- (d) The Zoning Ordinance, including conditional uses pursuant to this chapter.
- (e) Any capital improvements programs pursuant to N.J.S.A. 40:55D-29 et seq.
- (f) Variances and certain building permits in conjunction with subdivision, site plan and conditional use approval pursuant to the Board's ancillary powers.

(2) Zoning Board of Adjustment Powers. Pursuant to N.J.S.A. 40:55D-25c, the Planning Board shall exercise, to the same extent and subject to the same restrictions, all of the powers of a zoning board of adjustment, but the Class I and the Class III members shall not participate in the consideration of applications for development which involve relief pursuant to Subsection (d) of N.J.S.A. 40:55D-70.

(3) Other powers. The Planning Board may:

- (a) Participate in the preparation and review of programs or plans required by state or federal law or regulation.
- (b) Assemble data on a continuing basis as part of a continuous planning process.
- (c) Perform such other advisory duties as are assigned to it by ordinance or resolution of the Borough Council.

(4) Ancillary powers of the Planning Board

(a) Direction pursuant to N.J.S.A. 40:55D-34 for issuance of a permit for a building or structure in the bed of a mapped street or public drainageway, flood control basin or public area reserved pursuant to N.J.S.A. 40:55D-32.

(b) Direction pursuant to N.J.S.A. 40:55D-36 for issuance of a permit for a building or structure not related to a street.

C. Notice of variance and other relief required. Whenever relief is requested pursuant to this section, notice of the hearing on the application for development shall include reference to the request for variances or direction for issuance of a permit, as the case may be.

D. Time periods for action on applications seeking variance or other relief under this section. Whenever an application for approval of a subdivision plat, site plan or conditional use includes a request for "c" variance relief, the Planning Board shall grant or deny approval of the application within 120 days after submission by an applicant of a complete application to the Planning Board or within such further time as may be consented to by the applicant. In the event that the applicant elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance(s) or direction for issuance of a permit. The period for granting or denying any subsequent approval shall be as otherwise provided in this chapter. Failure of the Planning Board to act within the period prescribed shall constitute approval of the application and a certificate of the Planning Board Secretary as to the failure of the Planning Board to act shall be issued on request of the applicant. It shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the county recording officer for purposes of filing subdivision plats.

E. County approval. Whenever review or approval of the application by the County Planning Board is required by N.J.S.A. 40:27-6.3, in the case of a subdivision, or N.J.S.A. 40:27-6.6, in the case of a site plan, the Planning Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.

F. Referral powers of the Planning Board. Prior to the adoption of a development regulation, revision or amendment thereto, the Planning Board shall make and transmit to the Borough Council, within 35 days after referral, a report including identification of any provisions in the proposed development regulation, revision or amendment which are inconsistent with the Master Plan and recommendations concerning these inconsistencies and any other matters as the Board deems appropriate. The Borough Council, when considering the adoption of a development regulation, revision or amendment thereto, shall review the report of the Planning Board and may disapprove or change any recommendation by a vote of a majority of its full authorized membership and shall record in its minutes the reasons for not following such recommendations. Failure of the Planning Board to transmit its report within the thirty-five-day period provided herein shall relieve the Borough Council from the requirements of this subsection in regard to the proposed development regulation, revision or amendment referred to the Planning Board. Nothing in this section shall be construed as diminishing the application of the provisions of N.J.S.A. 40:55D-32 to any official map or an amendment or revision thereto or of N.J.S.A. 40:55D-62 to any zoning ordinance or any amendment or revision thereto.

G. Advisory Committee.

(1) The Mayor may appoint one or more persons as a citizens advisory committee to assist or collaborate with the Planning Board in its duties, but such committee shall have no power to vote or take other action required of the Board. Such persons shall serve at the pleasure of the Mayor.

(2) Whenever the Environmental Commission has prepared and submitted to the Planning Board and to the Board of Adjustment an index of the natural resources of the municipality, the Planning Board or the Board of Adjustment shall make available to the Environmental Commission an informational copy of every application for development submitted to either Board. Failure of the Planning Board or Board of Adjustment to make such information copy available to the Environmental Commission shall not invalidate any hearing or proceeding.

§ 161-5. Zoning Board of Adjustment.

A. All references in in the Code of the Borough of Franklin to a Zoning Board of Adjustment shall refer to the 9-member Planning Board established pursuant to N.J.S.A. 40:55D-25c.

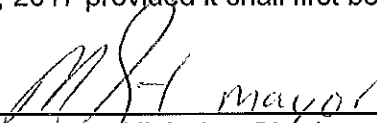
Section 2. Borough Ordinance § 161-5 shall be read to refer to the Planning Board, as amended.

Section 3. This ordinance shall be read and effected in accordance with N.J.S.A. 40:55D-25(c), as may be amended, including that the planning board shall exercise, to the same extent and subject to the same restrictions, all the powers of a board of adjustment; but the Class I and the Class III members shall not participate in the consideration of applications for development which involve relief pursuant to subsection d. of section 57 of P.L.1975, c. 291 (C.40:55D-70).

Section 4. Any other provision in the Borough ordinances in conflict with this provision on the date of the final adoption shall be stricken or, where it cannot be stricken, shall be read in conformance with the foregoing ordinance.

Section 5. If any provision or part of the foregoing ordinance or the application thereof to any person or circumstance shall be held to be invalid to any person or circumstance, the remainder shall remain valid and enforceable.

Section 6. This ordinance shall take effect as of January 1, 2017 provided it shall first be duly adopted.



Nicholas Giordano, Mayor

Attest:



Robin Hough, Borough Clerk

NOTICE

TAKE NOTICE that the above entitled Ordinance #20-2016 was introduced at a regular meeting of the Borough Council of the Borough of Franklin on December 13, 2016 and will be considered for final passage after public hearing at a regular meeting of the Borough Council of the Borough of Franklin to be held on December 27, 2016 at 7:00 p.m. in the Municipal Building, 46 Main Street, Franklin, New Jersey.

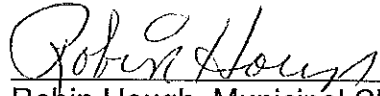


Robin Hough, Municipal Clerk

**BOROUGH OF FRANKLIN
LEGAL NOTICE**

**ORDINANCE 20-2016
LAND USE BOARDS REVISIONS
AN ORDINANCE AMENDING AND SETTING FORTH REVISIONS TO THE FRANKLIN
BOROUGH PLANNING BOARD AND CONSOLIDATING THE BOROUGH ZONING
BOARD OF ADJUSTMENT PURSUANT TO N.J.S.A. 40:55D-25(c).**

NOTICE is hereby given that the above Ordinance was introduced and passed on first reading at a meeting of the Borough Council of the Borough of Franklin, in the County of Sussex, State of New Jersey, held in the Municipal Building on the 13th day of December, 2016, and the same came up for final passage at a meeting of the said Borough Council on the 27th day of December, 2016, at which time, after persons interested were given an opportunity to be heard concerning said ordinance, the same was passed and will be in full force in the Borough according to law by order of the Borough Council of the Borough of Franklin, County of Sussex and State of New Jersey.



Robin Hough, Municipal Clerk